FOR MYSORE STATE

Law (1950) Department.

Ms SERIES.

G.O. No. 2443

Dated 19.6.52

[Despatch Abstract.]

2443/19-6-50. Acts- Madras Shops and Establishment Act, 1947- Prosecutions-withdrawal of Sanction of Government-Required-Orders issued.

Original letter in G.No.29506 P.I/50.

Copy of letter No.P.5/19256/50 dated 2-5-50 from the Commissioner to the Secretary to Government, Development Department.

Sub: Madras Shops and Establishments Act, 1947 - Prosecution- Withdrawal of.

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1. Sri P.S. Viswanatha Iyer, the previous Secretary to Government, Development Department, told me that the orders of Government should be obtained if prosecutions launched against the offenders are to be withdrawn. I am therefore reporting the following case for the orders of Government.

2. The Assistant Inspector of Labour, Salem took up a prosecution against Janab P.M. Dawood, Bazaar Street, Thammampatti for having contravened the provisions of section 11(1) of the Madras Shops and Establishments Act, 1947 and Rule 16(11) of the Madras Shops and Establishments Rules. The Stationery Sub Magistrate, Erode, in whose court the prosecution was launched, could not serve the warrant on the employer as he had left the place and his whereabouts were not known. I request the orders of the Government whether the prosecution launched against the employer may be withdrawn.

3. Cases under the Madras Shops and Establishments Act are petty ones and it will minimise work if I am authorised to withdraw the prosecutions launched under that Act and Rules framed thereunder.

- True copy

RR.12.8

ABSTRACT

Acts - Madras Shops and Establishment Act, 1947 - Prosecutions- Withdrawal- of - Sanctinn of Government - Required - Orders issued.

-x-x-x

Note File +-

DEVELOPMENT DEPARTMENT

Sub: Acts - Madras Shops and Establishments Act. 1947 - Prosecutions - Withdrawal of.

Ref: From the C.L.F.5-19856/50, dated 2.5.50.

To. A.S.

Under the Madras Shops and Establishments Act, 1947 the Assistant Inspectors of Labour launch prosecutions against the offenders after obtaining the approval of the C.L. The C.L. reports that the Secretary told him that orders of the Govt. should be obtained if prosecutions launched against the offenders are to be withdrawn, that cases under the Madras Shops and Establishments Act, are petty ones and that it will minimise work if he is authorised to withdraw prosecutions launched under the Act, and Rules framed thereunder.

2. According to the Public Department. U.O. Note No.3656/47-2, dated 10-11-47, all cases relating to the sanction or withdrawal of prosecutions have to be circulated to H.C.M. for approval. It is not clear whether this instruction is applicable only to cases wherein the Government sanction or withdraw prosecutions or whether it is also applicable to cases wherein the Heads of Departments or other officers are competent to sanction prosecutions. Public (Special) may be requested to advise.

Sd/....
18-5-50. (Public (Sol)

Public (Special) Department.

Please see the Development Department note above. The original orders of late H.P.M. are at page 37 n.f. of G.O.Ms.1001 Public (Special) dated 28-3-47. Apparently the intention of the late Honourable Premier seems tobe that cases wherein the Government Sanction or withdraw prosecutions should be circulated to him.

The orders do not indicate that all ases of sanction or withdrawal of prosecutions should be sent up to Governmen for orders.. The Commissioner of Labour has stated that cases under the Madras Shops and Establishments Act 1947 are petty ones and it is, perhaps, unnecessary that all cases of withdrawal of prosecutions under this Act should be sent up to Government for orders. This department may suggest that orders may be obtained in circulation includin H.C.M. in this case. With these remarks the file may be returned to Development Department.

Sd/. K.B.M
C.S.
31-5.

DEVELOPMENT DEPARTMENT.

SUMMARY.

Under the Madras Shops and Establishments Act 1947 the Asst. Inspectors of Labour launch prosecutions against the offenders after obtaining the approval of the C.L. The C.L. reports that the Secretary told him that orders of the Govt. should be obtained if prosecutions launched against the offenders are to be withdrawn, that cases under the Madras Shops and Establishments Act are petty ones and that it will minimise work if he is authorized to withdraw prosecutions launched under the Act and the Rules framed thereunder.

2. The Late Hon'ble Premier has ordered that all cases relating to the sanction or withdrawal of prosecutions should be circulated to him also. It is not however clear whether his orders apply only to cases wherein the Govt. sanction or withdraw prosecutions or whether they apply to cases wherein in the Heads of Depts. or other officers are competent to sanction prosecutions. Public (Spl) say that apparantly the intention of the late Hon'ble Premier seems to be that cases wherein the Govt. sanction

or withdraw prosecutions should be circulated to him and that the orders do not indicate that all cases of sanction of withdrawal of prosecutions should be sent up to Government for orders. They have also added that it is unnecessary to send up to Government all cases of withdrawal of prosecutions under the Shops and Establishments Act which are petty ones and have suggested that orders may be obtained in circulation including H.C.M. The case may be circulated to H.M.(L.R) and H.C.M. for orders whether all cases of withdrawal of prosecutions launched under the Madras Shops and Establishments Act should be sent to Govt. for orders or whether the C.L. himself may withdraw prosecutions as before.

Recently the C. of L. recommended the withdrawal of a case on the ground that the Asst. Inspector of Labour who prosecuted the party has since been reverted to the Fin. Sectt. and that if prosecution is to be proceeded with it will involve the grant of T.a. to this officer. This is not an argument at all for withdrawing prosecution. If the C. of L. had the power to withdraw prosecution, he would probably have exercised his powers in such cases. If therefore the power to withdraw prosecution is to be delegated to the Commissioner, it may be subject to the condition that he informs the Govt. immediately of the nature of case and the grounds on which prosecution has been advised to be withdrawn, so that the Govt. may satisfy themselves that the power delegated is exercised judiciously

For orders.

Sd/....
20-6-50

Sd/...
9-6-50

Sd/ H.S.R. H.M(L.R.)

after seeing the recent recommendation made by him I am not inclined to delegate any power to him ~~xxxx~~ All work channels however insignificant ~~that~~ those may be ~~should~~ be circulated to me.

H.C.M. (P.S.K.)
12-6-50.

H.M(L.R) may see the minutes of H.C.M. above.

Sd/...
3-6-50.

H.S.R. HM(L.R)

K. Chandra Reddy 14-6-.
K. V. Ambujakshan.

Superintendent.

RR.12.8